



PATENT
Attorney Docket No.: 10517-003700

#36
Appeal Brief
O'Brien
3/21/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

VOLKER SCHMIDT

Application No.: 08/836,369

Filed: October 20, 1997

For: TEMPERATURE-
MEASUREMENT INSTRUMENT WITH
DIFFRACTIVE OPTICS

Examiner: A. Hirshfeld

Art Unit: 2859

APPELLANT'S BRIEF UNDER
37 C.F.R. § 1.192

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The following is appellant's Appeal Brief submitted in triplicate pursuant to 37 CFR 1.192(a). The Commissioner is hereby authorized to charge the \$310.00 filing fee or any additional fees, as well as credit any overpayment, to the undersigned's Deposit Account No. 20-1430, as noted on the attached fee transmittal sheet. Appellants reserve the right to request an oral hearing pursuant to 37 CFR 1.194 following receipt of the Examiner's Answer.

REAL PARTY IN INTEREST:

RAYTEK, INC. is the real party in interest as the assignee of the above-identified application.

RELATED APPEALS AND INTERFERENCES:

No other appeals or interferences are known which will directly affect or be affected or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS:

Claims 1, 3 and 82 remain pending in this application and have been finally rejected. Appellant appeals the final rejection of claims 1, 3 and 82.

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STATUS OF AMENDMENTS:

No amendments have been filed subsequent to the final rejection.

SUMMARY OF THE INVENTION:

The present invention, as defined, for example, in claim 1, includes a sighting arrangement having a laser aligned to illuminate a diffractive optical system to provide a diffraction pattern in the form of a light intensity distribution to identify and outline the size of the measurement spot by means of visible light. Examples of the patterns generated are depicted in Figs. 2c, 2e, 2d, 2g and 3e.

ISSUE:

Whether the rejection of any of the pending claims under 35 U.S.C. §103 as being unpatentable in view of Hollander or the German patent document 32 13 955 in view of British patent document 2 203 537 is proper.

GROUPING OF THE CLAIMS:

It is Appellant's position that the claims stand or fall together.

THE REJECTION:

The USPTO issued a final rejection of the claims (mailed 1/19/00) under 35 U.S.C. §103(a) as being unpatentable in view of Hollander ("the first rejection") and as being unpatentable over German patent document 32 13 955 in view of British patent document 2 203 537 ("the second rejection").

The Cited References

1. Hollander

The reference Hollander discloses a radiometer with a laser sighting arrangement for outlining only the periphery of the energy zone imaged onto the IR sensor. For example, Figs. 2, 3, 4, 6, and 10 depict complicated mechanical devices for manipulating